

GOVERNMENT OF TELANGANA

ABSTRACT

Tribal Welfare Department -Khammam District - Revision Petition filed by Smt. Kandukuri Dhanamma (Non-Tribal) (Died), W/o Late Venkata Reddy, Legal heirs Smt. Kandukuri (Nelagatla) Vidyabharathi, W/o Laxminarayana Reddy and Sri Elakapudi Kishore Reddy,S/o Late Venkat Reddy, R/o Mittagudem(V), H/o Ammagaripally, Aswapuram (M) Erstwhile Khammam District now at Bhadradi Kothagudem District aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in C.M.A No:296/07 dated: 27-06-2009 - Dismissed - Orders - Issued

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No.32

Dated:-29-09-2018,

Read the following:-

- 1) Revision Petition filed by Smt. Kandukuri Dhanamma (Non-Tribal) W/o Late Venkata Reddy, R/o Mittagudem(V) H/o Ammagaripally , Aswapuram (M) Erstwhile Khammam District now at Bhadradi Kothagudem District,Dt:21-08-2009.
- 2) Govt.Memo.No.8951/LTR-2/2009,Dt:10.11.2009.
- 3)From the Additional Agent to GovernmentBhadrachalam.RP.No.8951/LTR-2/09 (CMA.No.296/2007), Dt:22-02-2010.

-0o0-

ORDER

In the reference 1st read above, Smt. Kandukuri Dhanamma (Non-Tribal) (Died), W/o Late Venkata Reddy, Legal heirs Smt. Kandukuri (Nelagatla) Vidyabharathi, W/o Laxminarayana Reddy and Sri Elakapudi Kishore Reddy,S/o Late Venkat Reddy, R/o Mittagudem(V), H/o Ammagaripally , Aswapuram (M),Erstwhile Khammam District now at Bhadradi Kothagudem District has filed Revision Petition before the Government aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in C.M.A No:296/07 dated: 27-06-2009 in respect of land to an extent of Acres Ac 2.10 in Sy. No.145 of Ammagaripalli(V) of Aswapuram(M), Bhadrachalam, Bhadradi Kothagudem District.

2. In the reference 2nd read above, the Project Officer &Additional Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Additional Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

- The learned Additional Agent ought to have seen that the primary authority after thorough adjudication has held that “on the evidence produced before this court it is evident that land transfer involved in the present case has been taken place in between Non-Tribal to Non-Tribal prior to 3.2.1970. Hence the AP(SA) Land Transfer Regulation 1/59 r/w 1/70 will not attract in this case.” Hence there is no contra evidence or material to reverse the said findings.
- The learned appellate authority ought to have seen that, the Special Deputy Collector, Tribal Welfare had followed the order of the Hon’ble High Court and dropped the proceedings as such in the absence of any contrafinding or any other material allowing the appeal filed by the respondent No. 4 i.e. Sri Payam Mangaiah(ST) S/o late Lakshmaiah is unjust.
- The learned appellate authority ought to have seen that the impugned proceedings are illegal, arbitrary, contrary to record and contrary to direction of Hon’ble High Court.
- The learned appellate authority ought to have seen that when the transaction has taken place in between Non-Tribals between 1970 there is no violation of regulations, as such on the face of it the impugned proceedings are not tenable and without jurisdiction.

4 The remarks of the Additional Agent to Government, Bhadrachalam on the Revision Petition are as under:

- The Land Transfer Regulation case No. 582/76 was initiated before the Special Deputy Collector, Tribal Welfare Palvoncha between Payam Lachaiah (ST) as petitioner and Kandukuri koti Reddy(Non-Tribal) as Respondent. The Special Deputy Collector, Tribal Welfare, Palvoncha passed orders in favour of (Non-Tribal)Respondent. Later the Special Revenue Inspector LTR initiated another Land Transfer Regulation case no. 989/88 between Payam Lachaiah (ST) as petitioner and Kandukuri koti Reddy(Non-Tribal) as Respondent. In this case also after due enquiry, the Special Deputy Collector, Tribal Welfare, Palvoncha passed ejectment orders on 28.7.1990 and ordered to restore the suit land to the tribal Petitioner

[p.t.o]

covering to extent of Ac 2.10 in Sy No.145 of Ammagaripalli(V) of Aswapuram(M). Aggrieved by the said orders passed in Land Transfer Regulation case No. 989/88 dt 28.7.90 Smt Kandukuri Dhanamma D/o Late Koti Reddy filed an appeal before the Agent to Government Khammam in CMA No. 13/91 after due enquiry the Agent to Government, Khammam has dismissed the appeal.

- Against CMA orders of the Agent to Government Khammam Smt K.Dhanamma has approached the Government and file Revision Petition. On hearing the Revision the Government has rejected the Revision Petition and passed orders vide G.O.Rt.No.966, dt 9.10.1995. Aggrieved by the orders of the Govt. again Smt K.Dhanamma approached the Hon'ble High court in WP No. 26970/95 the Hon'ble High court of AP has disposed the WP directing the Government to decide the matter afresh by giving notices to the parties.

- Accordingly, the Government have passed the orders vide G.O.Ms No. 135 dt 25.11.1996 and confirmed the orders passed in G.O. Rt. No.966 dt 9.10.1995. Against the said G.O.Ms No. 135, CMA/13/91 and LTR case No 989/88, Smt K.Dhanamma has filed WP before the Hon'ble High Court vide WP No.3653/1997 the Hon'ble High Court allowed the WP and directed the Special Deputy Collector, Tribal Welfare Bhadrachalam for fresh enquiry on certain points. As per the directions of the Hon'ble High court the Special Deputy Collector, Tribal Welfare has enquired the matter and passed orders in favour of the Non-Tribal respondent. Against the said orders the present tribal Respondent Payam Mangaiah has filed an appeal before Additional Agent to Government.

- As per the records one Malireddy Chandra Reddy has purchased the schedule land on 10.10.1958 under a sada sale deed who intern sold it to Mandepudi Gopaiah on 10.5.1962 and the said Gopaiah again sold the land to K.Koti Reddy father of the Revision Petitioner herein. The schedule land is situated in Agency Area, and burden lies on the Non-Tribal Revision Petitioner to show how she came in to possession of the suit land. It is submitted that previously the Special Deputy Collector(TW) Bhadrachalam rejected the claim of the Non Tribe in case No. 989/88. Against said order a CMA No. 13/1991 was filed before the Agent to Government Khammam and the same was dismissed. A revision was filed and the same was also dismissed in G.O.Rt No. 966 dt 9.10.1995. Aggrieved by the orders a W.P.No.26970/95 filed before the Hon'ble High Court of A.P., in which the Hon'ble High Court directed the Government to hear the matter afresh. Accordingly the Government after hearing confirmed the orders in G.O.Rt.No.966 dt 09.10.1995 vide the GO MS No. 135 dt 25.11.1996. It is submitted that before all the courts the Revision Petitioner failed to establish her case. As per the pahani 1961-62 Payam laxmaiah's name shown as pattadar and enjoyer. In 1962-63 pahani, payam Laxmaiah's name shown as pattadar and one Mandepudi Gopaiah shown as enjoyer. In the said column it was written that there is an INK change. In the year 1971-72 Payam Laxmaiah's name shown as Pattadar and K.Koti Reddy shown as enjoyer, which clearly establishes that K.Kotireddy came into possession of patta land of tribals.

- The Lower Court (Special Deputy Collector, Tribal Welfare) without going to facts of the case passed erroneous order and Addl. Agent to Government, Bhadrachalam herein after due enquiry set aside the lower court order.

- It is not correct to say that the appellate authority failed to see that the orders of the Hon'ble High Court which was followed by the Special Deputy Collector, Tribal Welfare, Bhadrachalam and dropped the proceedings. As per the orders of the Hon'ble High Court previously twice rejected the Revision Petitioner's claim in G.O.Rt. No. 966 dt 9.10.1995 and GO MS No. 135 dt 25.11.1996. The Special Deputy Collector, Tribal Welfare who is the Special Deputy Collector(TW), Bhadrachalam herein without going to merits of the case and without seeing the records passed orders. The Additional Agent to Government, Bhadrachalam after going to the records, rightly passed orders.

- The Revision Petitioner failed to establish her predecessors in title are in possession of the schedule land legally prior to commencement of Regulation. As per the pahani 1971-72 also Payam Laxmaiah shown as pattadar. If really her family purchased the land prior to Regulation their names would have been recorded in Revenue records as pattadar as well as enjoyer. In this case even in 1972 Payam Laxmaiah father of the Sri Payam Mangaiah (ST) S/o late Lakshmaiah is shown as pattadar (tribal). So the Revision Petitioner failed to establish her lawful possession of schedule land which belongs to a tribal.

- In view of the above that, the orders passed by the 1st Additional Agent to Government, Bhadrachalam herein are proper according to the provisions of APSA Land Transfer Regulation 1/59 as amended by 1/70.

[Contd....3]

::3::

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government it is observed that;

- The entire case records wherein orders passed by the lower court, that Sri Koti Reddy has purchased the land on 04.03.1968 from Sri M.Gopaiah through a sada sale deed, Mandepudi Gopaiah purchased the land on 10.05.1962 from M.Chandra Reddy through a sada sale deed. Sri M.Chandra Reddy purchased the said land on 10.10.1958 through a sada sale deed. Accordingly to her all these three transactions are through sada sale deeds only. These sada sale deeds are not valid.

6. Government after careful examination of the matter, hereby rejects the Revision Petition of Smt. Kandukuri Dhanamma (Non-Tribal) (Died), W/o Late Venkata Reddy, Legal heirs Smt. Kandukuri (Nelagatla) Vidyabharathi, W/o Laxminarayana Reddy and Sri Elakapudi Kishore Reddy, S/o Late Venkat Reddy, R/o Mittagudem(V), H/o Ammagaripally, Aswapuram (M) Erstwhile Khammam District now at Bhadradi Kothagudem District and hereby upholds the orders of the Additional Agent to Government and Project Officer, ITDA, Bhadrachalam dated: 27-06-2009 in C.M.A No:296/07.

7. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam shall take necessary further action accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA
SECRETARY TO GOVERNMENT

To

1) Smt.Kandukuri Dhanamma (Non-Tribal) (Died), W/o Late Venkata Reddy, Legal heirs Smt. Kandukuri (Nelagatla) Vidyabharathi, W/o Laxminarayana Reddy and Sri Elakapudi Kishore Reddy, S/o Late Venkat Reddy, R/o Mittagudem(V) H/o Ammagaripally, Aswapuram(M) Erstwhile Khammam District now at Bhadradi Kothagudem District.

2) Sri Payam Mangaiah (ST), S/o Late Lakshmaiah, R/o Mittagudem (V), H/o Ammagaripally, Aswapuram (M), Erstwhile Khammam District now at Bhadradi Kothagudem District

2) The Secretary and Correspondent,
Bhadradi Degree College, Bhadrachalam, Khammam District

3) The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Khammam District(w.e.)

Copy to :

The Special Deputy Collector(TW), Bhadrachalam, Khammam District.
for information and necessary action.

The Tahsildar, Aswapuram (M), Kothagudem, Bhadradi Kothagudem Dist for necessary action.

Sri T.L.K.Sharma & M.V.Venu, Advocates,
1-3-183/40/68/C/2, Gandhinagar, Hyderabad.

P.S to Minister (Tribal Welfare)/P.S. to Secretary(TW)
SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER

